

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

3:06CV221-1-MU

3:95CR20-2-MU

JAMES LARRY JOHNSON,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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ORDER

THIS MATTER comes before the Court upon the Petitioner's Motion for Reconsideration, filed June 2, 2006.

In his present Motion Petitioner asserts that this Court misinterpreted his intentions when ruling on his Motion to Correct Sentence. Petitioner asserts that he did not intend for his filing to be construed as a § 2255 motion. Rather, Petitioner contends that he is moving the Court for resentencing due to misapplication of the Sentencing Guidelines pursuant to 18 U.S.C.A. § 3742(a).

For the reasons explained in this Court's prior Order, Petitioner may not directly appeal his sentence to this Court. Petitioner may appeal a decision of this Court to the United States Court of Appeals for the Fourth Circuit. However, an appeal of this Court's Order dismissing his 1998 Motion to Vacate would almost certainly be untimely. Moreover, Petitioner has already filed a direct appeal of his criminal sentence.

THEREFORE, IT IS HEREBY ORDERED that Petitioner's Motion for Reconsideration is **DENIED**.

Signed: June 6, 2006

A handwritten signature in black ink, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

